IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1936 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AVANI KRISHNAKANT SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1936 of 1994

MRS KETTY A MEHTA for Petitioner No. 1

MR ND GOHIL A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 31/08/2004

ORAL JUDGEMENT

1.0. The petitioner by way of this petition has prayed that respondents be directed to continue him on the post of CDPO and further direct them not to revert the

petitioner to the post of Mukya Sevika.

2.0. From the record it appears that while admitting the petition this Court [Coram : S.M. Soni, J.] on 11th February, 1994 had passed the following order :-

"RULE. Ad-interim relief in terms of para 9 (C).
D.S. permitted.

2.1. Further, inspite of the order of this Court dated 10th August, 2004, the respondents have not filed their reply.

3.0. In that view of the matter and more particularly averments made in para 11 of the petition, it is clear that the respondents are trying to disturb the position of the petitioner which was prevailing since the year 1982. Further the petitioner was originally appointed as Mukya Sevika and was subsequently promoted to the post of CDPO by the respondents as per the rules which were prevailing at the relevant time. Further no affidavit-in-reply is filed by the respondents. Appointment of the petitioner was made subject the result of Special Civil Application no.1631 of 1982 dated 13th December, 1993, which came to be dismissed. Thus, no case is made out by the respondents to uphold the order of cancelling the appointment order of the petitioner.

3.1. In that view of the matter, the petition is required to be allowed and it is hereby allowed. The respondents are directed to continue the petitioner on the post of CDPO and her services shall be treated as continuous service right from the date of her initial appointment. Rule is made absolute to the aforesaid extent with no order as to costs.

4.0. Lastly, Mr. Gohil learned A.G.P. has submitted that since non co-operation is extended by the respondent officers, he is not able to file reply and therefore, time may be granted. However the said request is rejected. In view of non co-operation of different departments, this court has no other option but to pass the aforesaid order.

A copy of this order shall be sent to the Chief Secretary for issuing appropriate directions and initiate actions against the erring officers of different departments for not filing reply in the matters.

[K.S. JHAVERI, J.]

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